

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: : Case No. 17-23819-GLT

Cyrilla Landscaping & Supply Co. Inc., : Chapter 7

Debtor :

Eric E. Bononi, Trustee of the Bankruptcy :
Estate of Cyrilla Landscaping & Supply Co. Inc., : Doc. No. _____

Movant : Hearing Date & Time:
v. : November 21, 2019 at 10:30 a.m.

NO RESPONDENT :

MOTION TO RETAIN SPECIAL COUNSEL FOR CHAPTER 7 TRUSTEE *NUNC PRO TUNC*

NOW COMES the Trustee, James R. Walsh, Esquire, by and through his attorneys, Kevin J. Petak, Esquire, and the law firm of Spence, Custer, Saylor, Wolfe & Rose, LLC, and does file the within Motion to Retain Counsel in the above-captioned case, upon a cause whereof the following is a statement, to wit:

1. The above-captioned case was commenced by the Debtor's filing of a voluntary petition for relief, pursuant to the provisions of Chapter 11 of Title 11 of the United States Codes, 11 U.S.C. Section 101 et seq. on September 22, 2017.

2. By Order of Court dated August 26, 2019 (ECF No. 246), the Court converted the Chapter 11 proceeding to one under Chapter 7 of the Bankruptcy Code.

3. On August 26, 2019, the Office of the United States Trustee appointed Eric E. Bononi, Esquire as the interim Chapter 7 Trustee pursuant to 11 U.S.C. § 701. The said Eric E. Bononi, Esquire conducted and continued the Section 341 meeting of creditors and serves as the trustee pursuant to 11 U.S.C. § 702(d).

4. On October 23, 2019 (ECF No. 302), in accordance with the August 26, 2019 Order of Court (ECF No. 246), the Debtor caused to be filed the Small Business Monthly Operating Report for the period of August 1, 2019 through August 12, 2019 according to the report. Appended to the report was a document titled "Reconciliation Detail" which, upon review, evidenced numerous post-conversion transactions occurring from August 26, 2019 (the date of conversion to Chapter 7) until September 20, 2019, with unauthorized transfers totaling approximately \$30,000.00 occurring without the knowledge and/or consent of the Chapter 7 Trustee.

5. The Trustee requires the assistance of Counsel to investigate and recover possible post-conversion payments and transfers of estate assets and, for the performance of such other services as may be determined are needed to be performed to effectively and properly represent this Estate.

6. This application to retain is being filed *Nunc Pro Tunc* to be effective as of the date of the filing of the instant Motion.

7. The Trustee believes and therefore avers that the best interest of the Estate will be served by his retaining the appointment of Kevin J. Petak, Esquire and the law firm of Spence, Custer, Saylor, Wolfe and Rose, LLC, as special counsel for the Estate.

8. The aforementioned proposed counsel is admitted to practice before this Court, and is experienced and familiar with bankruptcy practice and procedures.

9. The aforementioned proposed counsel has agreed to serve as counsel for the Estate at their usual fair and reasonable hourly rate which, as of the filing of the instant Application is \$300/hour subject to review and adjustment at the end of each calendar year.

10. The aforesaid proposed counsel has no connections with the Debtor, nor any claimants, their attorneys or accountants, or any other known party interest, which would be adverse to the interest of the Estate or create a conflict of interest.

11. The Trustee proposes to retain Kevin J. Petak, Esquire and the law firm of Spence,

Custer, Saylor, Wolfe & Rose, LLC as attorneys in the belief that such retention will minimize expenses to the Estate.

WHEREFORE, the Trustee does pray this Honorable Court to authorize the appointment of Kevin J. Petak, Esquire and the law firm of Spence, Custer, Saylor, Wolfe and Rose, LLC, as special counsel for the Trustee *Nunc Pro Tunc*, and further he does authorize his proposed counsel to file this Motion on his behalf.

Dated: October 24, 2019

Respectfully Submitted,

SPENCE CUSTER SAYLOR WOLFE & ROSE, L.L.C.

/s/Kevin J. Petak,
Kevin J. Petak, Esquire
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Proposed Attorneys for Trustee